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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,600	05/23/2006	Jan Georg Solms Beyers	ADMS-0010	5767
23377 7590 07/12/2007 WOODCOCK WASHBURN LLP CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891			EXAMINER WONG, STEVEN B.	
			ART UNIT 3711	PAPER NUMBER
			MAIL DATE 07/12/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/566,600

Applicant(s)

BEYERS, JAN GEORG SOLMS

Examiner

Steven Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11-13-2006</u> | 6) <input type="checkbox"/> Other: ____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tate (6,030,298). Regarding claim 7, Tate discloses a tool comprising a plurality of ends (48, 50) that are inherently capable of being pushed into damaged turf so as to deepen the depression of the pitch mark and a restoring tool (20, 22) comprising a plurality of tines that can be inserted into the turf surrounding the depressed pitch mark.

Regarding claim 8, note Figure 2 of Tate showing a cone shaped pushing formation for the tool.

Regarding claim 10, note Figure 2 showing an annular step formation (60, 62) for the tool.

***Claim Rejections - 35 USC § 102/103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 9 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tate (6,030,298). Note Figure 2 which appears to show an angle for the cone of approximately 30 degrees.

In the alternative, it would have been obvious to one of ordinary skill in the art to have the angle be approximately 30 degrees as the applicant has not shown the criticality for this recited angle by a new and unexpected result obtained therefrom and it appears that the angle taught by Tate would accomplish similar purposes.

***Claim Rejections - 35 USC § 103***

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tate (6,030,298). Regarding claim 11, note Figure 2 showing two spaced tines. It would have been obvious to one of ordinary skill in the art to form the tines parallel to one another in order to allow for a wider spacing between the tines so that they can pry more of the turf.

6. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clouston (AU 200187238) in view of Wiens (6,223,829). Clouston reveals a golf tool comprising a coring portion (12) and a tine portion (11). Note page 4, lines 1-8 of Clouston stating that a user pushes the device downwardly into a pitch mark until it reaches a desired depth. Note also Figures 1 and 2 showing a tapered portion (15) for the device. Due to the tapered portion and the downward force applied to the device, the device is seen as pushing damaged turf of the pitch mark downwardly into the green. Clouston also teaches inserting an elongate tine into the turf surround the depressed pitch mark and urging healthy grass into the pitch mark. However, it is unclear if the tool of Clouston is levered inwardly about a fulcrum defined at the lower end of the tine.

Wiens reveals that it is well known in the prior art of divot repair tools to lever the healthy turn into the pitch mark by a fulcrum defined at the lower end of the tine. Note Figure 3.

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It would have been obvious to one of ordinary skill in the art to use the tool of Clouston in the manner shown in Figure 3 of Wiens in order to properly repair the divot mark.

Regarding claim 2, it would have been obvious to one of ordinary skill in the art to repeatedly insert and lever the tine in order to work the turf slowly and effectively into the divot mark.

Regarding claim 3, note page 4, lines 15 and 16 of Clouston stating that a user can press down on the turf to level the area.

Regarding claim 4, note Figure 3 of Wiens showing an angle of approximately 65 degrees with respect to the healthy turf.

Regarding claim 5, note Figures 2 and 3 of Wiens showing the tool inserted a distance away from the pitch mark. It would have been obvious to one of ordinary skill in the art to insert the tool approximately 10 mm away as the applicant has not shown that this particular is for any stated purpose and it appears that distance taught by Wiens would accomplish similar purposes.

Regarding claim 6, Clouston states that the device may be used to any desired depth. It would have been obvious to one of ordinary skill in the art to have the desired depth be 10 mm in order to ensure the removal of any damaged turf. Further, the particular depth is considered to be obvious given the teachings of Clouston and the lack of a showing of the criticality for the distance by a showing of a new and unexpected result obtained therefrom.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 8am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 Steven Wong  
Primary Examiner  
Art Unit 3711

SBW  
July 5, 2007